

# Notice of Allowability

Application No.

09/673,964

Examiner

Felix E Suarez

Applicant(s)

KUBISTA, MIKAEL

Art Unit

2857

*ms*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 28 September 2004.
2. ☒ The allowed claim(s) is/are 15-28.
3. ☒ The drawings filed on 19 December 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|   | 9. <input type="checkbox"/> Other _____   |



## DETAILED ACTION

### *Allowable Subject Matter*

1. Claims 15-28 are allowable.
2. The following is a statement of reasons for the indication of

allowable subject matter:

Claims 15-28 are allowable because the prior art, particularly Hively et al. [U.S. Patent No. 5,815,413], Hill [U.S. Patent No. 6,246,481], Stoughton et al. [U.S. Patent No. 6,351,712] and Richards-Kortum et al [U.S. Patent No. 6,095,982] fail to teach or suggest a method for characterizing physical samples to determined the content of the samples comprising the step of:

obtaining a physical sample, or pair of physical samples,

processing the sample, or pair of samples to generate a multidimensional response according to

$$I(\alpha, \beta, \gamma \dots) = \sum c_i I_i(\alpha) I_i(\beta) I_i(\gamma) \dots$$

where the number of data points in each dimension are at least two

$$\alpha_1, \alpha_2, \dots \alpha_l \quad l \geq 2$$

$$\beta_1, \beta_2, \dots \beta_m \quad m \geq 2$$

$$\gamma_1, \gamma_2, \dots \gamma_n \quad n \geq 2$$

and calculating the 1-dimensional responses of the components,  $\tilde{I}_i(\alpha)$ ,

$\tilde{I}_i(\beta)$ ,  $\tilde{I}_i(\gamma) \dots$  to provide an indication of the content of the sample or samples.

**Conclusion**

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Felix Suarez, whose telephone number is (571) 272-2223. The examiner can normally be reached on weekdays from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on (571) 272-2216. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and for After Final communications.

December 1, 2004

F.S.



MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
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